

S B T SMALL BUSINESS IN TELECOMMUNICATIONS

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July 11, 1997

Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Informal Comments To Petition
For Partial Reconsideration Filed By
WebCel Communications, Inc.
CC Docket No. 92-297

RECEIVED

JUL 11 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Sir or Madam:

On behalf of its membership and potentially adversely affected small businesses which are seeking greater access to the telecommunications marketplace through the assistance of the agency in accord with its mandate under Sections 257 and 309 of the Communications Act of 1934 (as amended), SBT hereby files informal comments in support of the above captioned petition filed by WebCel Communications, Inc. ("WebCel") dated May 29, 1997.

SBT is a non-profit association of telecommunications companies which is devoted to preserving and improving the opportunities throughout the industry for small businesses. Our voting members each derive less than \$20 million in annual revenues. SBT represents hundreds of small businesses serving the telecommunications industry in the provision of numerous wireless services and associated businesses. Its interests are well known to the Commission and its involvement in rule makings extend to future regulation of private radio, paging, SMR, microwave, and interconnection rates, assisting the Commission toward a greater recognition of the contribution of small business in building and preserving the telecommunications industry and the services which it provides to the public.

Although not a previous commenter in this proceeding, SBT believes that it is important to voice its opposition to proposed auction rules within this proceeding which, if permanently adopted, would reduce opportunity for small business in its future participation in LMDS auctions. Specifically, SBT has become aware of WebCel's petition which seeks greater opportunity for small business in the LMDS auctions and its suggested criteria for creating greater and more meaningful access for small business auction participants. In sum, WebCel has proposed on reconsideration that the Commission provide the following:

1. Additional designations for "very small business" which would include entities with annual revenues of less than \$3 million or \$15 million dollars, including revised payment schedules for

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very small business which are tied to interest payments of less than 2.5% over U.S. Treasury Note rates.

2. A bar to participation in entrepreneurial block auctions for entities with greater than \$500 million in assets. The agency is aware that certain debt-strapped entities, which are likely to default on payments for future auction participation, are still asset rich at this time. These start-up ventures may not appear by their recent revenue figures to be large businesses, but the value of their assets contradict any definition which would characterize any as "small business."

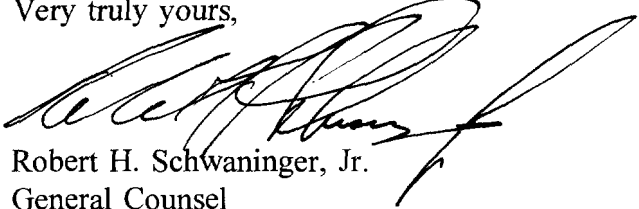
3. Greater protection against LECs thwarting the intent of the auctions in bringing competition to the marketplace. WebCel cites several possible examples, including the holding of warrants and other convertible securities by LECs, in possibly undermining the potential rewards of greater competition in the marketplace.

WebCel's comments and goals, as expressed in its petition, are consistent with the efforts of SBT in furthering competitive opportunity for small business. That there is no market requirement that any LMDS provider be compelled to provide roaming or seamless, nationwide capacity also weighs in favor of greater participation by small business. There is no competing interest that these systems be consolidated under a single company or industry group, or forced to comply with a rigid build-out under system protocols and design criteria imposed by a unique group of manufacturers. In fact, LMDS systems may provide the ultimate in system design flexibility to meet the needs of niche markets that are the lifeblood of small business and entrepreneurial start-up companies. This vital opportunity to provide additional competition should not be thwarted in its infancy by auction rules which might the agency might inadvertently allow to be abused to maintain monopolistic practices, rather than increasing healthy competition.

Based on the foregoing, SBT supports those portions of WebCel's comments cited herein and respectfully requests that the Commission reexamine its approach to future auctions of LMDS spectrum. SBT asserts that the Commission's \$40 million definition of small business is not appropriate in assuring meaningful participation by legitimate small business concerns and that

additional incentives for participation are required if the agency is to reasonably expect that its LMDS auction will enjoy successful participation by small business in furtherance of Congress' mandate codified at Section 309 of the Act.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert H. Schwaninger, Jr.", written over the typed name and title.

Robert H. Schwaninger, Jr.
General Counsel

RHS:rn

cc: FCC Chairman Reed Hundt
Commissioner Chong
Commissioner Ness
Commissioner Quello
Senate Commerce Committee Members
Small Business Administration
Congressional Budget Office
David Mallof

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